
SUBSTITUTE HOUSE BILL 2938

State of Washington 60th Legislature 2008 Regular Session

By House Local Government (originally sponsored by Representatives Simpson, Schindler, Wood, Hankins, and VanDeWege)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to clarifying annexation procedures between cities
2 and fire districts; amending RCW 35.02.210, 36.70A.110, 36.115.070, and
3 35.13.270; adding a new section to chapter 35.02 RCW; adding a new
4 section to chapter 35.13 RCW; adding a new section to chapter 35A.14
5 RCW; and repealing RCW 35.02.190, 35.02.200, 35.02.202, 35.02.205,
6 35A.14.380, and 35A.14.400.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.02 RCW
9 to read as follows:

10 A city or town incorporating under this chapter shall, prior to the
11 effective date of the incorporation, enter into a service agreement
12 with each fire protection district whose boundaries will be changed by
13 the incorporation. The service agreement shall address the transfer of
14 revenues and assets between the fire district and the city or town
15 taking into consideration the impact of the incorporation on the
16 ability of the fire protection district to maintain existing levels of
17 service in the portions of the fire protection district outside of the
18 incorporation area and the impact on the provision of fire protection
19 and emergency medical services within the incorporation area.

1 Service agreements entered into under this section shall include
2 provisions for transferring fire protection district employees to the
3 incorporating city or town on a pro rata basis determined by: The
4 number of district employees prior to the incorporation; and the
5 percentage of the district's assessed value affected by the
6 incorporation. Transfer requests under this section shall be made in
7 writing by the district to the incorporating city or town and shall be
8 honored by the city or town in order of employee seniority.

9 In the event an agreement is not entered into prior to the
10 effective date of the incorporation, then until such time as a service
11 agreement is entered into:

12 (1) The fire district shall continue to provide service to the
13 annexed area;

14 (2) The tax levy transfer provisions of RCW 35.13.270(2)(a) are
15 suspended; and

16 (3) At the time the city or town property taxes are levied on the
17 annexed properties, the city or town shall pay to the fire protection
18 district, on a quarterly basis, an amount equal to what the fire
19 district would have received in tax and/or benefit charge revenues if
20 the property had not been removed from the district.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.13 RCW
22 to read as follows:

23 A city or town annexing property under this chapter shall, prior to
24 the effective date of the annexation, enter into a service agreement
25 with each fire protection district whose boundaries will be changed by
26 the annexation. The service agreement shall address the transfer of
27 revenues and assets between the fire district and the city or town
28 taking into consideration the impact of the annexation on the ability
29 of the fire protection district to maintain existing levels of service
30 in the portions of the fire protection district outside of the
31 annexation area and the impact on the provision of fire protection and
32 emergency medical services within the annexation area.

33 Service agreements entered into under this section shall include
34 provisions for transferring fire protection district employees to the
35 annexing city or town on a pro rata basis determined by: The number of
36 district employees prior to the annexation; and the percentage of the
37 district's assessed value affected by the annexation. Transfer

1 requests under this section shall be made in writing by the district to
2 the annexing city or town and shall be honored by the city or town in
3 order of employee seniority.

4 In the event an agreement is not entered into prior to the
5 effective date of the annexation, then until such time as a service
6 agreement is entered into:

7 (1) The fire district shall continue to provide service to the
8 annexed area;

9 (2) The tax levy transfer provisions of RCW 35.13.270(2)(a) are
10 suspended; and

11 (3) At the time the city or town property taxes are levied on the
12 annexed properties, the city or town shall pay to the fire protection
13 district, on a quarterly basis, an amount equal to what the fire
14 district would have received in tax and/or benefit charge revenues if
15 the property had not been removed from the district.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 35A.14 RCW
17 to read as follows:

18 A city annexing property under this chapter shall, prior to the
19 effective date of the annexation, enter into a service agreement with
20 each fire protection district whose boundaries will be changed by the
21 annexation. The service agreement shall address the transfer of
22 revenues and assets between the fire district and the city taking into
23 consideration the impact of the annexation on the ability of the fire
24 protection district to maintain existing levels of service in the
25 portions of the fire protection district outside of the annexation area
26 and the impact on the provision of fire protection and emergency
27 medical services within the annexation area.

28 Service agreements entered into under this section shall include
29 provisions for transferring fire protection district employees to the
30 annexing city on a pro rata basis determined by: The number of
31 district employees prior to the annexation; and the percentage of the
32 district's assessed value affected by the annexation. Transfer
33 requests under this section shall be made in writing by the district to
34 the annexing city and shall be honored by the city in order of employee
35 seniority.

36 In the event an agreement is not entered into prior to the

1 effective date of the annexation, then until such time as a service
2 agreement is entered into:

3 (1) The fire district shall continue to provide service to the
4 annexed area;

5 (2) The tax levy transfer provisions of RCW 35.13.270(2)(a) are
6 suspended; and

7 (3) At such time as the city property taxes are levied on the
8 annexed properties, the city shall pay to the fire protection district,
9 on a quarterly basis, an amount equal to what the fire district would
10 have received in tax and/or benefit charge revenues if the property had
11 not been removed from the district.

12 **Sec. 4.** RCW 35.02.210 and 1991 c 360 s 8 are each amended to read
13 as follows:

14 At the option of the governing body of a newly incorporated city or
15 town, any (~~fire protection district or~~) library district serving any
16 part of the area so incorporated shall continue to provide services to
17 such area until the city or town receives its own property tax
18 receipts.

19 **Sec. 5.** RCW 36.70A.110 and 2004 c 206 s 1 are each amended to read
20 as follows:

21 (1) Each county that is required or chooses to plan under RCW
22 36.70A.040 shall designate an urban growth area or areas within which
23 urban growth shall be encouraged and outside of which growth can occur
24 only if it is not urban in nature. Each city that is located in such
25 a county shall be included within an urban growth area. An urban
26 growth area may include more than a single city. An urban growth area
27 may include territory that is located outside of a city only if such
28 territory already is characterized by urban growth whether or not the
29 urban growth area includes a city, or is adjacent to territory already
30 characterized by urban growth, or is a designated new fully contained
31 community as defined by RCW 36.70A.350.

32 (2) Based upon the growth management population projection made for
33 the county by the office of financial management, the county and each
34 city within the county shall include areas and densities sufficient to
35 permit the urban growth that is projected to occur in the county or

1 city for the succeeding twenty-year period, except for those urban
2 growth areas contained totally within a national historical reserve.

3 Each urban growth area shall permit urban densities and shall
4 include greenbelt and open space areas. In the case of urban growth
5 areas contained totally within a national historical reserve, the city
6 may restrict densities, intensities, and forms of urban growth as
7 determined to be necessary and appropriate to protect the physical,
8 cultural, or historic integrity of the reserve. An urban growth area
9 determination may include a reasonable land market supply factor and
10 shall permit a range of urban densities and uses. In determining this
11 market factor, cities and counties may consider local circumstances.
12 Cities and counties have discretion in their comprehensive plans to
13 make many choices about accommodating growth.

14 Within one year of July 1, 1990, each county that as of June 1,
15 1991, was required or chose to plan under RCW 36.70A.040, shall begin
16 consulting with each city located within its boundaries and each city
17 shall propose the location of an urban growth area. Within sixty days
18 of the date the county legislative authority of a county adopts its
19 resolution of intention or of certification by the office of financial
20 management, all other counties that are required or choose to plan
21 under RCW 36.70A.040 shall begin this consultation with each city
22 located within its boundaries. The county shall attempt to reach
23 agreement with each city on the location of an urban growth area within
24 which the city is located. If such an agreement is not reached with
25 each city located within the urban growth area, the county shall
26 justify in writing why it so designated the area an urban growth area.
27 A city may object formally with the department over the designation of
28 the urban growth area within which it is located. Where appropriate,
29 the department shall attempt to resolve the conflicts, including the
30 use of mediation services.

31 (3) Urban growth should be located first in areas already
32 characterized by urban growth that have adequate existing public
33 facility and service capacities to serve such development, second in
34 areas already characterized by urban growth that will be served
35 adequately by a combination of both existing public facilities and
36 services and any additional needed public facilities and services that
37 are provided by either public or private sources, and third in the

1 remaining portions of the urban growth areas. Urban growth may also be
2 located in designated new fully contained communities as defined by RCW
3 36.70A.350.

4 (4) In general, cities and fire protection districts are the units
5 of local government most appropriate to provide urban governmental
6 services. In general, it is not appropriate that urban governmental
7 services be extended to or expanded in rural areas except in those
8 limited circumstances shown to be necessary to protect basic public
9 health and safety and the environment and when such services are
10 financially supportable at rural densities and do not permit urban
11 development.

12 (5) On or before October 1, 1993, each county that was initially
13 required to plan under RCW 36.70A.040(1) shall adopt development
14 regulations designating interim urban growth areas under this chapter.
15 Within three years and three months of the date the county legislative
16 authority of a county adopts its resolution of intention or of
17 certification by the office of financial management, all other counties
18 that are required or choose to plan under RCW 36.70A.040 shall adopt
19 development regulations designating interim urban growth areas under
20 this chapter. Adoption of the interim urban growth areas may only
21 occur after public notice; public hearing; and compliance with the
22 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
23 Such action may be appealed to the appropriate growth management
24 hearings board under RCW 36.70A.280. Final urban growth areas shall be
25 adopted at the time of comprehensive plan adoption under this chapter.

26 (6) Each county shall include designations of urban growth areas in
27 its comprehensive plan.

28 (7) An urban growth area designated in accordance with this section
29 may include within its boundaries urban service areas or potential
30 annexation areas designated for specific cities or towns within the
31 county.

32 **Sec. 6.** RCW 36.115.070 and 1994 c 266 s 7 are each amended to read
33 as follows:

34 It is the intent of the legislature to permit the creation of a
35 flexible process to establish service agreements and to recognize that
36 local governments possess broad authority to shape a variety of
37 government service agreements to meet their local needs and

1 circumstances. However, it is noted that in general, cities and fire
2 protection districts are the unit of local government most appropriate
3 to provide urban governmental services and counties are the unit of
4 local government most appropriate to provide regional governmental
5 services.

6 The process to establish service agreements should assure that all
7 directly affected local governments, and Indian tribes at their option,
8 are allowed to be heard on issues relevant to them.

9 **Sec. 7.** RCW 35.13.270 and 2007 c 285 s 1 are each amended to read
10 as follows:

11 (1) Whenever any territory is annexed to a city or town which is
12 part of a road district of the county and road district taxes have been
13 levied but not collected on any property within the annexed territory,
14 the same shall when collected by the county treasurer be paid to the
15 city or town and by the city or town placed in the city or town street
16 fund; except that road district taxes that are delinquent before the
17 date of annexation shall be paid to the county and placed in the county
18 road fund.

19 (2) When territory that is part of a fire district is annexed to a
20 city or town, the following apply:

21 (a) Except under sections 1 through 3 of this act, fire district
22 taxes on annexed property that were levied, but not collected, and were
23 not delinquent at the time of the annexation shall, when collected, be
24 paid to the annexing city or town at times required by the county, but
25 no less frequently than by July 10th for collections through June 30th
26 and January 10th for collections through December 31st following the
27 annexation; and

28 (b) Fire district taxes on annexed property that were levied, but
29 not collected, and were delinquent at the time of the annexation and
30 the pro rata share of the current year levy budgeted for general
31 obligation debt, when collected, shall be paid to the fire district.

32 (3) When territory that is part of a library district is annexed to
33 a city or town, the following apply:

34 (a) Library district taxes on annexed property that were levied,
35 but not collected, and were not delinquent at the time of the
36 annexation shall, when collected, be paid to the annexing city or town

1 at times required by the county, but no less frequently than by July
2 10th for collections through June 30th and January 10th for collections
3 through December 31st following the annexation; and

4 (b) Library district taxes on annexed property that were levied,
5 but not collected, and were delinquent at the time of the annexation
6 and the pro rata share of the current year levy budgeted for general
7 obligation debt, when collected, shall be paid to the library district.

8 (4) Subsections (1) through (3) of this section do not apply to any
9 special assessments due in behalf of such property.

10 (5) If a city or town annexes property within a fire district or
11 library district while any general obligation bond secured by the
12 taxing authority of the district is outstanding, the bonded
13 indebtedness of the fire district or library district remains an
14 obligation of the taxable property annexed as if the annexation had not
15 occurred.

16 (6) The city or town is required to provide notification, by
17 certified mail, that includes a list of annexed parcel numbers, to the
18 county treasurer and assessor, and to the fire district and library
19 district, as appropriate, at least thirty days before the effective
20 date of the annexation. The county treasurer is only required to remit
21 to the city or town those road taxes, fire district taxes, and library
22 district taxes collected thirty days or more after receipt of the
23 notification.

24 (7)(a) In counties that do not have a boundary review board, the
25 city or town shall provide notification to the fire district or library
26 district of the jurisdiction's resolution approving the annexation.
27 The notification required under this subsection must:

28 (i) Be made by certified mail within seven days of the resolution
29 approving the annexation; and

30 (ii) Include a description of the annexed area.

31 (b) In counties that have a boundary review board, the city or town
32 shall provide notification of the proposed annexation to the fire
33 district or library district simultaneously when notice of the proposed
34 annexation is provided by the jurisdiction to the boundary review board
35 under RCW 36.93.090.

36 (8) The provisions of this section regarding (a) the transfer of
37 fire and library district property taxes and (b) city and town
38 notifications to fire and library districts do not apply if the city or

1 town has been annexed to and is within the fire or library district
2 when the city or town approves a resolution to annex unincorporated
3 county territory.

4 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
5 repealed:

6 (1) RCW 35.02.190 (Annexation/incorporation of fire protection
7 district--Transfer of assets when at least sixty percent of assessed
8 valuation is annexed or incorporated in city or town) and 1993 c 262 s
9 3, 1989 c 76 s 2, 1986 c 234 s 18, 1981 c 332 s 5, & 1965 c 7 s
10 35.13.247;

11 (2) RCW 35.02.200 (Annexation/incorporation of fire protection
12 district--Ownership of assets of fire protection district--When less
13 than sixty percent) and 1997 c 245 s 2;

14 (3) RCW 35.02.202 (Annexation/incorporation of fire protection
15 district--Delay of transfer) and 1991 c 360 s 7;

16 (4) RCW 35.02.205 (Annexation/incorporation of fire protection
17 district--Distribution of assets of district when less than five
18 percent of district annexed--Distribution agreement--Arbitration) and
19 1993 c 262 s 4 & 1989 c 267 s 3;

20 (5) RCW 35A.14.380 (Ownership of assets of fire protection
21 district--Assumption of responsibility of fire protection--When at
22 least sixty percent of assessed valuation is annexed or incorporated in
23 code city) and 1981 c 332 s 8 & 1967 ex.s. c 119 s 35A.14.380; and

24 (6) RCW 35A.14.400 (Ownership of assets of fire protection
25 district--When less than sixty percent of assessed valuation is annexed
26 or incorporated in code city) and 1989 c 267 s 2 & 1967 ex.s. c 119 s
27 35A.14.400.

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